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APPLIED MATERIALS, INC.
2881 SCOTT BLVD. M/S 2061
SANTA CLARA, CA 95050

Paper No. 28

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OCT 16 2003

OFFICE OF PETITIONS

In re Application of
Michael Grimbergen
Application No. 09/379,753
Filed: August 24, 1999
Attorney Docket No. 3948/USA/SIL

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DECISION ON
PETITION

This is a decision on the "PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed July 8, 2003 in the above-identified application.

The petition under § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a timely and proper reply to the final Office action mailed December 5, 2002. This Office action set forth a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). On March 12, 2003, applicant filed an amendment, made timely by an accompanying petition for extension within the first month. However, this amendment was determined by the examiner not to place the application in condition for allowance (Advisory Action mailed March 24, 2003). On Monday, April 7, 2003, applicant timely filed a request for continued examination (RCE). However, it was determined that the RCE was improper because it did not include the required fee¹ (Notice of Improper RCE mailed June 2, 2003). No proper reply having been filed and no further extensions of time obtained, the above-identified application became abandoned effective April 6, 2003. The present petition precedes the mailing of a Notice of Abandonment.

The instant petition includes the required reply in the form of payment of the RCE fee; payment of the petition fee; and a statement that the "entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional." No terminal disclaimer is required on petition.

¹ It is presumed that either on the date of processing of the fee the Deposit Account provided on the RCE transmittal did not have sufficient funds or the form was not signed by an authorized user. On petition, applicant does not contest the determination that the RCE was improper.

The application file is being forwarded to Technology Center 1763 for consideration by the examiner of both the RCE filed April 7, 2003 (and perfected on petition) and the submission under § 1.114, an amendment previously filed March 12, 2003.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0309.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a long horizontal line extending to the right.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions